

Remarks/Arguments:

Claim Status

Claims 1-20 and 22-25 are currently pending. By this response, claims 1, 15, 17, 18 and 22-25 are amended. No new matter is added. Accordingly, claims 1-20 and 22-25 are presented for reconsideration.

Claim Rejections Under 35 U.S.C. 112

Claims 15 and 23-25 stand rejected under 35 U.S.C. 112 as being indefinite. Applicant has amended claim 15 to recite that the leg spacing is defined by a distance, as opposed to the member. Applicant has amended claims 22 and 23 to clarify that those claims recite method steps. Applicant has amended claim 23 to replace the terms "wing(s)" and "leg(s)" with the phrases "at least one wing" and "at least one leg", respectively, for the purpose of clarity. Applicant respectfully submits that the foregoing amendments clarify the language of claims 15 and 23-25, and the rejections of those claims should be withdrawn. Reconsideration of claims 15 and 23-25 is respectfully requested.

Claim Rejections Under 35 U.S.C. 102

(1) Claims 1, 2, 4-15 and 17-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Weir (US Patent No. 5,148,644). Applicant respectfully requests reconsideration of these claims and respectfully submits that these claims are patentable over Weir for the reasons set forth below.

Independent claim 1 recites elements that are neither disclosed nor suggested by Weir, namely:

Flashing comprising an elongate body for overlying a member, and legs extending for at least part of the body length and protruding from opposing sides of the body, the flashing having a configuration prior to overlying the member whereby one or both **legs is/are biased inwards towards a center line of the body**, and towards a respective member side when positioned thereat. (Emphasis added)

As best shown in FIG. 5 of Weir, the side portions 32 of base member 30' extend orthogonally with respect to the main body portion 31, and are not biased towards a center line of main body portion 31. For at least that reason, Weir does not disclose all the elements of claim 1. Reconsideration of claim 1 and the rejected claims that depend from claim 1 is respectfully requested.

Independent claims 17 and 18 recites elements that are neither disclosed nor suggested by Weir, namely:

... legs are detachable from the body along **a respective line of severance that is defined on the elongate body**. (Emphasis added) [see claim 17]

... wings are detachable from the body along **a respective line of severance that is defined on the elongate body**. (Emphasis added) [see claim 18]

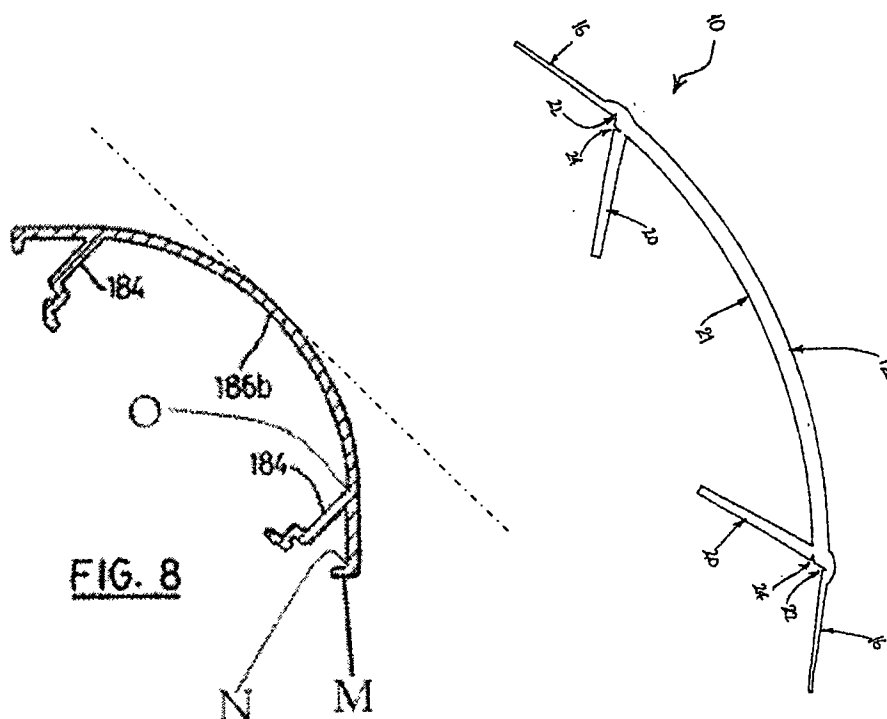
Claims 17 and 18 have been amended to affirmatively claim that one or more lines of severance are defined on the elongate body. Weir does not disclose or suggest a line of severance that is defined on an elongate body. For at least that reason, Weir does not disclose all the elements of claims 17 and 18. Reconsideration of claims 17 and 18 and the rejected claims that depend from claims 17 and 18 is respectfully requested.

(2) Claims 1-4 and 6-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Sykes (WO 91/13221). Applicant respectfully requests reconsideration of these claims and respectfully submits that these claims are patentable over Sykes for the reasons set forth below.

Independent claim 1 recites elements that are neither disclosed nor suggested by Sykes, namely:

Flashing comprising an elongate body for overlying a member, and legs extending for at least part of the body length and protruding from opposing sides of the body, the flashing having a configuration prior to overlying the member whereby one or both **legs is/are biased inwards towards a center line of the body**, and towards a respective member side when positioned thereat. (Emphasis added)

As best shown in FIG. 8 of Sykes, an annotated copy of which is reproduced below to the left, items 184 are oriented perpendicular to a tangential plane (shown in broken lines) that intersects the center line of cover 186b. Neither of items 184 of cover 186b are biased inwards toward a center line of cover 186b. Moreover, items 184 are described as being "rearwardly directed" at page 11, line 19. For comparison purposes, Applicant has reproduced a copy of FIG. 4 of the instant application below and to the right, which depicts legs 20 biased ***inwards*** toward a center line of body 12. Lastly, as best shown in FIG. 9 of Sykes, items 184 are designed to lock into re-entrant rib 183. Covers 186a-c are not "overlying the member", as recited in claim 1, because there is a "relatively large space 182" (see page 11, lines 5-10) that is defined between the cover 186c and connector 178 such that cables or electrical connectors can be accommodated. For at least those reasons, Sykes does not disclose all the elements of claim 1. Reconsideration of claim 1 and the rejected claims that depend from claim 1 is respectfully requested.



Independent claims 17 and 18 recite elements that are neither disclosed nor suggested by Sykes, namely,

... legs are detachable from the body along **a respective line of severance that is defined on the elongate body.** (Emphasis added) [see claim 17]

... wings are detachable from the body along **a respective line of severance that is defined on the elongate body.** (Emphasis added) [see claim 18]

Claims 17 and 18 have been amended to affirmatively claim that one or more lines of severance are defined on the elongate body. Sykes does not disclose or suggest a line of severance that is defined on an elongate body. For at least that reason, Sykes does not disclose all the elements of claims 17 and 18. Reconsideration of claims 17 and 18 and the rejected claims that depend from claims 17 and 18 is respectfully requested.

(3) Claim 1 stands rejected under 35 U.S.C. 102(b) as being anticipated by Knoche (DE 3730758). Applicant respectfully requests reconsideration of claim 1 and respectfully submits that this claim is patentable over Knoche for the reasons set forth below.

Independent claim 1 recites elements that are neither disclosed nor suggested by Knoche, namely:

Flashing comprising an elongate body for overlying a member, and legs extending for at least part of the body length and **protruding from opposing sides of the body**, the flashing having a configuration prior to overlying the member whereby one or both legs is/are **biased inwards towards a center line of the body**, and towards a respective member side when positioned thereat. (Emphasis added)

The Office Action characterizes items 214 and 211 as "legs ... extending for at least part of the body length and protruding from either side of the body." Applicant has amended claim 1 to clarify that the legs protrude from **opposing** sides of the body. As best shown in FIG. 2 of Knoche, items 211 and 214 extend outward from the same location on a single side of member 21. For that reason, items 211 and 214 do not protrude from opposing sides of a body, as recited in claim 1. Furthermore, items 211 and 214 are both

biased outward from a center line of member 21, and, thus, are not biased inwards towards a center line of a body, as recited in claim 1. For at least those reasons, Knoche does not disclose all of the elements of claim 1. Reconsideration of claim 1 is respectfully requested.

Claim Rejections Under 35 U.S.C. 103

Claims 22-25 stand rejected as being unpatentable over Knoche (DE 3730758). Applicant respectfully requests reconsideration of these claims and respectfully submits that these claims are patentable over Knoche for the reasons set forth below.

Claims 22-25 ultimately depend from claim 1 and include all of the elements thereof. Independent claim 1 recites elements that are neither disclosed nor suggested by Knoche, namely:

Flashing comprising an elongate body for overlying a member, and legs extending for at least part of the body length and **protruding from opposing sides of the body**, the flashing having a configuration prior to overlying the member whereby one or both legs is/are **biased inwards towards a center line of the body**, and towards a respective member side when positioned thereat. (Emphasis added)

The Office Action characterizes items 214 and 211 as "legs ... extending for at least part of the body length and protruding from either side of the body." Applicant has amended claim 1 to clarify that the legs protrude from opposing sides of the body. As best shown in FIG. 2 of Knoche, items 211 and 214 extend outward from the same location on a single side of member 21. For that reason, items 211 and 214 do not protrude from opposing sides of a body, as recited in claim 1. Furthermore, items 211 and 214 are both biased outward from a center line of member 21, and, thus, are not biased inwards towards a center line of a body, as recited in claim 1. Accordingly, because claim 1 includes elements that are neither disclosed nor suggested by Knoche, *prima facie* obviousness cannot be established based on the cited reference. Reconsideration of claims 22-25 is respectfully requested.

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Amendment dated October 22, 2009
In reply to Office Action of May 22, 2009

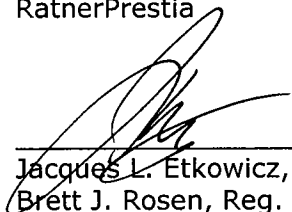
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Conclusion

In view of the amendments in the claims and the remarks set forth above, Applicant respectfully submits that this application is now in condition for allowance, which action is respectfully requested.

Respectfully submitted,

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